

D.) REMARKS

Introduction

The Office Action has been received and carefully considered. As set forth in the Office Action, claims 1-17 have been elected in response to the Examiner's Restriction, and claims 18-28 are withdrawn. Pending claims 1-17 stand rejected by the Examiner. By this amendment the claim rejections are believed to be traversed. As such, Applicant respectfully submits that the application is now in condition for allowance.

Amendments

The specification has been amended to correct a typographical error in the Detailed Description of the Preferred Embodiments section. No new matter is added by this amendment.

Claim 1 has been amended to further recite the subject matter of claims 2 and 10, and to recite that the flow rate of the adhesive is selected to deposit about 0.0444 grams or less of adhesive per meter of elastic. Support for this amendment is found in the specification at page 29, Table 2. Claims 2 and 10 have been cancelled. Claim 8 has been amended solely for the purposes of clarifying the claim language. No new matter is added by these amendments.

Claim Rejections

At Office Action paragraphs 9-16, the Examiner rejected claims 1-17 under 35 U.S.C. §§ 102(b) and 103(a) based on various prior art references. As noted above, the Applicant has amended claim 1 (from which claims 2-17 ultimately depend) to include various features not present in the art of record. Specifically, claim 1 has been amended to additionally recite that:

- (a) the adhesive does not contact the first or second sheets during when it is being deposited onto the elastic strands;
- (b) the first and second sheets are joined together only by mutual adhesion to the adhesive coating on the elastic strands; and,

- (c) the adhesive flow rate is selected to deposit about 0.0444 grams or less of adhesive per meter of elastic.

The prior art of record fails to anticipate or render obvious amended claim 1 for the following reasons.

With regard to UK Patent Application 2,118,021A (UK '021), this reference fails to teach or suggest that the sheets are joined solely by mutual adhesion to the adhesive coating the elastics. Instead, UK '021 teaches away from this limitation at page 5, lines 14-18, where it states that the sheets between which the elastics are attached are coated by a separate adhesive to hold them together. Furthermore, UK '021 teaches away from the claimed adhesive flow rates at page 5, lines 48-52 by stating that a coating of less than 0.1 grams per meter would prevent the elastics from being attached to the garment.

With regard to European Patent Application 372,120 (EP '120), while this reference does show two sheets that appear to only be joined by the adhesive coating on the elastic members (Fig. 5), the orientation of the applicator head as shown in Figure 1 would appear to result in adhesive being directly deposited onto the lower sheet 14, in contradiction to the amended claim limitation. It is also not clear whether there is an additional adhesive between the sheets. The German copy of EP '120 provided by the Examiner does not clarify this ambiguity. Furthermore, EP '120 fails to teach or suggest the claimed adhesive flow rates of the present invention.

With regard to U.S. Patent No. 4,081,301 (Buell), U.S. Patent No. 4,547,243 (Brody) and European Patent Application 626,161 (EP '161) these references all fail to teach or suggest the amended claim limitation that the sheets are attached solely by mutual attachment to the adhesive coating the elastics, and some of these references actually specifically teach against this limitation. *See* Buell at col. 4, ll. 35-38 (teaching use of additional adhesive to hold sheets together); Brody at col. 3, ll. 1-31 (stating that invention is applied to conventional diapers and incorporating Buell by reference); *and*

EP '161 at col. 5, ll. 17-23 and Figs. 3 and 5 (showing broad area of adhesive application). These references also all fail to teach or suggest the claimed adhesive flow rates.

With regard to Japanese Patent 61-152801 (JP '801), this reference fails to teach or suggest the limitation that the adhesive does not contact the sheets when it is being applied to the elastic strands. As stated in the translated abstract and shown in Figure 1 (in which the adhesive spray nozzle is item 10), the adhesive is *sprayed* onto the rubber threads while the threads are set on the film in a tensed state — therefore, the adhesive must be applied to both the threads and film. In addition, it would be impossible to substantially coat the elastic strand around its entire periphery while it is on the film, as required by claim 1, and therefore this limitation is also absent from JP '801. Still further, JP '801 also fails to teach or suggest the claimed adhesive flow rates.

With regard to U.S. Patent No. 5,919,179 (Faulks), and U.S. Patent No. 5,827,259 (Laux), these references both fail to teach or suggest any of the limitations that claim 1 has been amended to include. Namely, they fail to disclose applying adhesive to elastics without simultaneously applying adhesive to the sheets, attaching the sheets solely by mutual attachment to the adhesive on the elastic strand, and the claimed adhesive flow rates.


With regard to U.S. Patent No. U.S. Patent No. 5,993,433 (St. Louis), this reference fails to teach or suggest the use of a comb-type adhesive applicator, and instead discloses the use of various helically patterned spray adhesives. *See* St. Louis col. 17, ll. 29-37. In contrast, the applicator comb of the claimed invention is intended to avoid the use of sprays to prevent undesirable overspray. St. Louis also discloses that the elastic strands can be attached to the fabric layer by first applying an adhesive strip to the fabric layer. *See* St. Louis at col. 21, ll. 41-45. This contradicts the claim limitation that the adhesive is applied to the elastic strands without simultaneously attaching it to the sheets by suggesting that the adhesive is applied to the sheet first, rather than to the elastic strands. St. Louis also fails to teach or suggest the adhesive flow rates of the amended claims.

In light of the foregoing amendments and remarks, Applicants believe that the claims are patently distinguishable over the cited art of record, and withdrawal of the § 102(b) and § 103(a) rejections of claims 1-17 is respectfully requested.

Conclusion

For at least the above reasons, the Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and allowance of the pending claims are respectfully solicited. Should there be anything further required to place the application in better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,
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Dated: July 23, 2003

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